IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.147 OF 2006

IN

SECOND APPEAL NO.1189 OF 2005

Gopinath Ganpat Pawar ...Applicant

Versus

Shobhana Vasudeo Mane & Anr. ...Respondents

.....

Mr.Tajane i/b Mr.D.J.Deshmukh for Applicant.

None for Respondents.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 1, 2006.

P.C.

1. Heard Counsel for the Applicant. Perused the Application.

2. The explanation offered in the Application is that on account of headache, cold and fever, the Advocate of the Applicant did not attend the Court on 27th September 2005. However, across the bar, learned Counsel states that due to heavy rains as

also some accident which had occurred, the Advocate could not attend the Court on 27th September 2005. The latter reason is not part of the application. The only inference that can be drawn is that incorrect excuse is given in the application for recalling order dated 27th September 2005.

3. There can be no justification for the Advocate on record for the Applicant to remain absent on the notified date. Even in case of his personal difficulty, he was expected to make necessary arrangement to inform the Court about personal difficulty on that date. This minimum courtesy is expected from the members of the bar. If that courtesy is not shown, the order as passed on 27th September 2005 does not require reconsideration.

4. In other words, the explanation offered in the Application is not satisfactory. However, as the litigant should not suffer for the mistake of the Advocate, the Application is allowed in terms of prayer clauses (a) and (b), on condition that the Advocate on record himself shall pay cost

quantified at Rs.750/- (Rupees Seven Hundred Fifty) to the High Court Legal Services Committee within one week from today, failing which, Office to treat this Application as dismissed for non-prosecution.

5. If cost is paid in time, the Appeal be processed further and be placed for admission as per its turn.

A.M.KHANWILKAR, J.